


AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	7-20-2009
NAME OF SERVER (PRINT) Evan Rhodes	TITLE	
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: 712 Moors Camp highway Benton, KY		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on 7-20-2009	 Signature of Server	
<div style="text-align: center;"> MLQ ATTORNEY SERVICES 2000 RIVEREDGE PARKWAY NW SUITE 885 ATLANTA, GA 30328 1-800-446-8794 </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure



30308

DUPLICATE

AO 440 (Rev. 04/08) Civil Summons

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

TPI HOLDINGS, INC., et al.

Plaintiff

v.

WESLEY SMITH, et al.

Defendant

Civil Action No.

1 09-cv-1919

Summons in a Civil Action

To: (Defendant's name and address)

Jimmie Smith
712 Moors Camp Highway
Benton, Kentucky 42025

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Judith A. Powell
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JAMES N. HATTEN

Date: 16 JUL 2009

Name of clerk of court

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

1 09-cv-1919

JS44 (Rev. 1/08 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

TPI HOLDINGS, INC., and DOMINION ENTERPRISES

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Fulton County, Georgia
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANT(S)

WESLEY SMITH, JIMMIE SMITH, and MACKENZIE SMITH, individually and dba Motohost, and JOHN DOES 1 through 10

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Judith A. Powell
 Kilpatrick Stockton LLP
 1100 Peachtree Street, Suite 2800
 Atlanta, Georgia 30309-4530
 (404) 815-6433
 jpowell@kilpatrickstockton.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION
 (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF ☒ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
☐ 2 U.S. GOVERNMENT DEFENDANT ☐ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
 (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
 (FOR DIVERSITY CASES ONLY)

- | PLF | DEF | | PLF | DEF | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|---|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 ORIGINAL PROCEEDING ☐ 2 REMOVED FROM STATE COURT ☐ 3 REMANDED FROM APPELLATE COURT ☐ 4 REINSTATED OR REOPENED ☐ 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District) ☐ 6 MULTIDISTRICT LITIGATION ☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

15 U.S.C. Sections 1051-1127, 15 U.S.C. Section 1125(d); trademark infringement, cybersquatting and unfair competition.

(IF COMPLEX, CHECK REASON BELOW)

- | | |
|---|---|
| <input type="checkbox"/> 1. Unusually large number of parties. | <input type="checkbox"/> 6. Problems locating or preserving evidence |
| <input type="checkbox"/> 2. Unusually large number of claims or defenses. | <input type="checkbox"/> 7. Pending parallel investigations or actions by government. |
| <input type="checkbox"/> 3. Factual issues are exceptionally complex | <input type="checkbox"/> 8. Multiple use of experts. |
| <input type="checkbox"/> 4. Greater than normal volume of evidence. | <input type="checkbox"/> 9. Need for discovery outside United States boundaries. |
| <input type="checkbox"/> 5. Extended discovery period is needed. | <input type="checkbox"/> 10. Existence of highly technical issues and proof. |

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIVED	AMOUNT	APPLYING	MAG JUDGE (IF)
JUDGE	MAG JUDGE	NATURE OF SUIT	CAUSE OF ACTION

DUPLICATE



FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

JUL 16 2009

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By: *[Signature]* Deputy Clerk

TPI HOLDINGS, INC., and DOMINION)
ENTERPRISES,)

Plaintiffs,)

v.)

WESLEY SMITH, JIMMIE SMITH, and)
MACKENZIE SMITH, individually and)
dba Motohost, and JOHN DOES 1)
through 10)

Defendants.)

Civil Action No.:

1 09-cv-1919

COMPLAINT

Plaintiffs TPI Holdings, Inc. and Dominion Enterprises (collectively "TPI") state the following for their Complaint against Defendants Wesley Smith, Jimmie Smith, and MacKenzie Smith, individually and dba Motohost, and John Does 1 through 10 (collectively "Defendants"):

Nature of the Action

1. This is an action at law and in equity for trademark infringement, cybersquatting, and unfair competition arising under the federal Lanham Act, codified as amended at 15 U.S.C. §§ 1051-1127, the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), and state statutory and common law, arising out

DUPLICATE

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U.S.D.C. Atlanta

JUL 16 2009

JAMES N. HATTEN, Clerk
By: *JNH* Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TPI HOLDINGS, INC., and DOMINION)
ENTERPRISES,)

Plaintiffs,)

v.)

WESLEY SMITH, JIMMIE SMITH, and)
MACKENZIE SMITH, individually and)
dba Motohost, and JOHN DOES 1)
through 10)

Defendants.)

Civil Action No.:

1 09-cv-1919

CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT

(1) The undersigned counsel of record for a party to this action certifies that the following is a full and complete list of all parties in this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party:

TPI Holdings, Inc.

Dominion Enterprises

Wesley Smith

Jimmie Smith

MacKenzie Smith